IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

WP(C).No. 26864 of 2006(W)

PETITIONER:

K.AYYAPPAN, S/O. KOCHUKUTTY,
RESIDING AT PANAMOOTTIL HOUSE, ERUVA P.O.,
KAYAMKULAM.

BY ADV. SRI.R.RAJASEKHARAN PILLAI

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY
THE SECRETARY, IRRIGATION AND W.S.GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE CHIEF ENGINEER,
PWD ADMINISTRATION, THIRUVANANTHAPURAM.

3. THE EXECUTIVE ENGINEER,
SUB DIVISION OFFICE, MINOR IRRIGATION,
CHENGANNOOR.

4. THE ASSISTANT EXECUTIVE ENGINEER,
MINOR IRRIGATION, SUB DIVISION OFFICE, HARIPPAD.

5. THE ASSISTANT ENGINEER,
MINOR IRRIGATION, SECTION OFFICE,
KAYAMKULAM.

BY GOVERNMENT PLEADER SRI.P. NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF ORDER NO.EE2/25399/98 DATED 1.11.1999 OF THE 2ND RESPONDENT

EXT.P2: TRUE COPY OF ORDER NO. O & M (2) 49461/83 DATED 3.3.97 ISSUED BY THE 2ND RESPONDENT

EXT.P3: TRUE COPY OF THE LETTER DATED 17.7.2000 OF THE ASSISTANT EXECUTIVE ENGINEER, MINOR IRRIGATION SUB DIVISION, CHENGANNUR TO THE 3RD RESPONDENT

EXT.P4: TRUE COPY OF THE DETAILS OF THE SERVICE PARTICULARS OF THE PETITIONER FURNISHED TO THE EXECUTIVE ENGINEER, CHENGANNOOR

EXT.P4A: TRUE COPY OF THE JUDGMENT 9.4.2003 IN O.P. NO.12468/2003 OF THIS HON'BLE COURT.

EXT.P5: TRUE COPY OF THE ORDER NO.EE2-33318/03 DATED 20.10.2003 OF THE 2ND RESPONDENT

EXT.P6: TRUE COPY OF THE REMINDER DATED 16.12.2005 SUBMITTED BY THE PETITIONER BEFORE THE GOVERNMENT

EXT.P7: TRUE COPY OF THE FORWARDING LETTER OF THE HONOURABLE OPPOSITION LEADER DATED 9.12.2005

EXT.P7A: TRUE COPY OF THE REPLY TO EXT.P7 DATED 14.12.2005

EXT.P8: TRUE COPY OF THE REPRESENTATION DATED 27.7.2006 SUBMITTED BY THE PETITIONER BEFORE THE MINISTER

EXT.P8A: TRUE COPY OF THE REPRESENTATION DATED 25.9.2006 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT

RESPONDENTS EXHIBITS:

EXT. R2 (a): TRUE COPY OF G.O. (P) 6/90/PW DATED 20.1.1990

/TRUE COPY/

K.BALAKRISHNAN NAIR,J.

W.P (C) No. 26864 of 2006

Dated this the 9th day of July, 2007

J U D G M E N T

The petitioner has approached this court challenging Exhibit-P5 proceedings of the 2nd respondent declining his request for inclusion of his name in the CLR seniority list for regularisation in service. The said decision was taken pursuant to Exhibit-P4A judgment. His inclusion has been rejected mainly on two grounds. The first ground is that he did not submit any representation before the cut off date of 31.7.1992. The second ground is that HR period cannot be treated as CLR service. Petitioner submits that he has filed representations in time. Secondly, the finding that HR service cannot be treated as CLR service is unsustainable in law. The respondents 2 and 3 have filed separate counter affidavits supporting the impugned order.

2. I have heard the Learned Government Pleader for the respondents. The delay in submitting the representation cannot be a ground for rejecting the claim of the petitioner, if he is otherwise eligible. HR service shall be treated as CLR service, in view of the decisions of this court in O.P.No.19745/1997 and

W.P.(C)No.8630 of 2005. In the latter judgment, the communication of the Government permitting to treat HR service as CLR service is also quoted. In view of the above position, Exhibit-P5 is quashed. The matter is remitted back to the 2nd respondent for fresh consideration, in accordance with law, in the light of the principles laid down by this court in the above two decisions, within two months from the date of production of a copy of this judgment.

The writ petition is disposed of as above.

(K.BALAKRISHNAN NAIR, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007